

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
PATENT EXAMINING OPERATION

Applicant(s): Kevin Jon Williams

U.S. application no. 10/782,968

Group Art Unit: 1643

Filed: February 20, 2004

Examiner: Alana M. Harris

Att. Docket No.: W1107/20009

Confirmation No.: 9607

For: Clinical Assays for Thrombospondin Fragments in the Detection, Diagnosis, and Evaluation of Cancer".

APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C. F. R. § 1.705

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicant requests reconsideration of the Patent Term Adjustment ("PTA") set forth in the "Notice of Allowance and Fee(s) Due" dated June 24, 2011. The basis for the Request starts on page 2 of this paper.

CERTIFICATE OF MAILING/TRANSMISSION PURSUANT TO 37 CFR 1.8

I hereby certify that this correspondence and any attachments referenced therein is/are being mailed/transmitted to the USPTO by EFS-Web (37 CFR § 1.6(a)(4)) on the date shown below.

Date: 9/20/2011

Signature: _____

Allan H. Fried

Name: _____

Allan H. Fried

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REQUEST FOR RECONSIDERATION

This request is specific to the calculation under 37 CFR 1.702(a)(1). Applicant understands that any request for a reconsideration of a calculation under 37 CFR 1.702(b) would be premature.

Fee required per 37 CFR §1.18(e)

The fee is being submitted via EFS-web along with this document.

Statement of the facts

Correct patent term adjustments (“PTAs”):

On Notice of Allowance the PTA should be: 404 days

On PAIR, the A delays should be: 705 days

On PAIR, A delay due to notification later than 14 months should be: 674 days

Current incorrect PTAs

On Notice of Allowance the PTA is: 254 days

On PAIR, A delays are: 555 days

On PAIR, A delay due to notification later than 14 months is: 524 days

Basis for adjustments:

The notification mailed September 26, 2006 was an “Office Communication” disclosing, in its first paragraph, that it was essentially a “Notice to Comply With Requirements for Patent

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Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures”. The phrase “attached Notice to Comply” in that paragraph was inaccurate since (as can be seen from PAIR) there was no attached Notice. Rather the essence of the Notice to Comply was set forth in the second paragraph of the Office Communication.

A “Notice to Comply With Requirements for Patent Applications Containing Nucleotide Sequence And/Or Amino Acid Sequence Disclosures” does not qualify as an office action under 35 U.S.C. 132. (See MPEP §2731). Rather the office action mailed February 23, 2007, a Restriction Requirement, does so qualify. (See MPEP §2731). The difference between September 26, 2006 and February 23, 2011 is 150 days.

Relevant dates for which an adjustment is sought:

The mailing of a notification under 35 U.S.C. 132 should not be September 26, 2006. Rather it should be February 23, 2007. (See 37 CFR 1.703(a)(1)).

Terminal Disclaimer:

The patent that will issue on the present application is subject to a terminal disclaimer. The expiration date specified on the terminal disclaimer is “the expiration date of the full statutory term prior patent No.7,655,411”.

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Circumstances during the prosecution of the application that constituted a failure to engage in reasonable efforts to conclude processing or examination of the application as set forth in §1.704:

These are set forth in PAIR. They total 301 days. They correspond to late responses by Applicant to Patent Office notifications. They are denoted on PAIR as follows:

| | |
|--------------------|----------------|
| July 23, 2007: | 61 days |
| June 8, 2008: | 93 days |
| September 3, 2009: | 91 days |
| May 6, 2010: | 16 days |
| November 18, 2010: | <u>40 days</u> |
| Total: | 301 days |

Should a Patent Office representative believe that a telephone conversation would be useful, Applicant's undersigned attorney can best be reached on his cell phone at **610-724-2952**.

Respectfully submitted,

CAESAR, RIVISE, BERNSTEIN,
COHEN & POKOTILOW, LTD.

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September 20, 2011

Please charge or credit our
Account No. 03-0075 as necessary
to effect entry and/or ensure
consideration of this submission.